

# AN ORDINANCE

For better Amending and keeping  
in Repair the

Common High-Waies  
Within this  
N A T I O N.



*Fryday March 31. 1654.*

**O**Rdered by his Highness the Lord  
Protector and His Council, that this  
Ordinance be forthwith Printed and Pub-  
lished.

*Henry Scobel, Clerk of the Council.*

*London, Printed by Henry Hills and William du Gard, Printers  
to His Highness the Lord Protector, 1654.*

OR BINGE  
AN

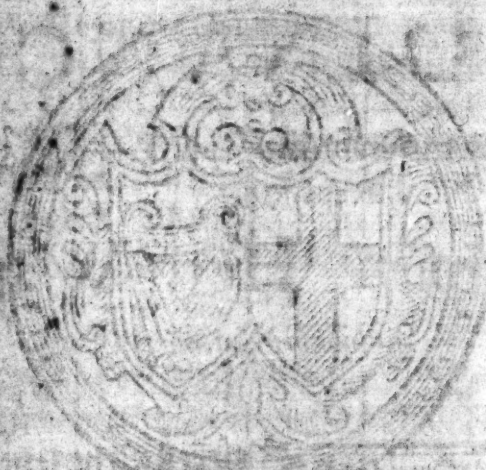
For better understanding and keeping

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# ORDINANCE

For better Ammending and Keeping in  
Repair the

## Common High-Waies

*Within this Nation.*



Whereas the severall  
Statutes now in  
force for mending  
High-Waies, are  
found by experience  
not to have produ-  
ced such Good Re-  
formation as was  
thereby intended;  
Therefore, and to  
the end more effectual Remedies may be pro-

vided, Be it Ordained by his highness the Lord Protector, by and with the advice and consent of his Council,

## I.

*in copy  
of the Statute  
20th  
of Edward  
6th*  
That in every Parish within this Nation of England and Wales, there be two or more (according to the Greatness of the Parish) able and sufficient householders inhabiting in such Parish, and severally holding Lands there of the yearly value of twenty pounds or more, in occupation, or such others as shall be worth one hundred pounds in personal estate, elected and chosen upon the first Tuesday next ensuing the five and twentieth day of March, yearly, to be Surveyors of the High-Wales within their respective Parishes for the year ensuing.

## II.

*Default  
in 20  
of Edward  
6th*  
That if it shall fall out that no such Surveyors shall be chosen as aforesaid, within any such Parish, that then in such case the Parishioners of every such Parish shall forfeit twenty pounds, to be levied upon the most substantial Inhabitants thereof, who are to have Contribution from all the rest of the Inhabitants of the said Parish who are taxable hereby, for Repare of the said High-Wales; and in case of Difference in Rating, the same to be Ordered and settled by the Justices of the Peace of the said County, City or Town Corporate, where such Parish



Parish lies, or any two of them; and in such case where no such election of Surveyors shall be made as aforesaid, the then Overseers for the Poor of that Parish are hereby appointed to be Surveyors of the said High-Wates within such Parish, for the year ensuing.

*Ja. D. J. J.  
overseers  
for the poor*

## III.

That every person being Elected, or hereby appointed to be Surveyors of High-Wates, as aforesaid, shall undertake the Office, and shall within ten daies after such his election, or being appointed as aforesaid, procure himself to be sworn before some Justice of Peace of the County, Riding, City, or Town Corporate, or Limit, within which his Parish doth ly, diligently and faithfully to execute the Office of Surveyor of High-Wates within this Parish for the year then ensuing, and faithfully to accompt for all moneys which shall come to his hands by vertue of his said Office, which Oath every Justice of Peace is hereby impowred and authorized to administer, within the Limits of his Commission accordingly. And if any such person so elected, or hereby appointed, shall refuse to accept of the said Office, and to procure himself to be sworn as aforesaid, that then every person so failing shall forfeit for the same the summe of Ten pounds.

*with  
J. B.  
10. J. J.  
J. J. J.*

*J. J. J.  
10. J. J.*

## IV.

That every Surveyor of High-Wates, ha-  
ving

*Bin 10*  
*7th Nov 17*  
*apud*  
*South*  
 ving accepted the Office, and being sworn as aforesaid, shall diligently apply himself to the Duty and execution of his Office, and shall within ten daies after his Oath taken view all the Common and publick High-ways and Roads, where Carts and Carriages usually pass, and all Common Bridges belonging to the said Parish, to repair, and all water-courses, as also all Streets, and pavements, and Common Nuisances in the said waies and Streets, within their respective Parishes, And shall consider what Reparations will be needfull to be made, and what Summes of Money will be requisite and necessary to be raised within the Parish for amending and repairing the same, upon pain of forfeiting twenty shillings a peice for neglect of such view.

*to B.*  
*Apud*  
*South*  
 That the said Surveyors do, within six daies after such view, give publick notice in the Church or Chappel to the Parishioners to meet to make an Asselsment for repairing the said High-ways and Streets, for making and repairing of pavements, and for cleansing the said Streets and Pavements, from time to time, and for what else shall be requisite for the purposes aforesaid, and thereupon a Rate or Tax in Writing within three daies after such notice, shall be laid by the said Inhabitants present at such meeting or the greater number of them, by a pound rate, upon all the severall Occupiers of houses, Lands Tythes,

Tythes, Cole-Mines, Felleable Woods, Te-  
nements or hereditaments, within the Parish,  
according to the true yearly value of the same,  
and also upon the dead Goods, Commodi-  
ties or Stock in trade of every particular pa-  
rishioner charged to pay to the poor, rating  
every twenty pounds value of such Goods, e-  
quall to every twenty Shillings Land by  
year; and such further Rate to be afterward  
and oftner made, as occasion shall require, so  
as all the Rates together do not exceed  
twelve pence in the pound for any one Parish  
in any one year.

That if such Parishioners, the greater  
number of them, shall not agree among them-  
selves to make such Rate within two dates  
after such meeting, that then the said Sur-  
veyors of High-Wales themselves shall make  
a Rate in writing according to the direction a-  
foresaid, and such Rate as the said Parish-  
ioners or Surveyors respectively shall so make  
being consented by one Justice of Peace, shall  
stand, untill upon complaint and proof of some  
Irregularity or Inequality therein, to the  
Justices of Peace at the Sessions, the Bench  
of Justices, or any two of them then present,  
shall see cause to alter the same; and if the  
said Justices shall find cause to alter it, then  
the said Rate, with such alteration as they  
shall make, shall stand without any further  
appeal.



## VII.

*Refused  
Dec 19<sup>th</sup>  
78*

That in case where Common Nuisances are in High-Waies, or where such Common High-Waies in any Parish are freightned by reason of Inclosures made within twenty years, either by Hedges, Ditches, Walls, or the like, or where Ditches, or Water-Courses adjoining upon such High-Waies, or which do lead the Water from such High-Waies are not scoured and dressed, or where any pavements are defective, or any Nuisances by filth or otherwise are in any paved streets, the said Surveyors shall see that the same be reformed, and the Offenders in any of the premises punished according to Law, by Information or Indictments, deducting for the charge of prosecution out of the moneys collected; and the said Parishioners or Surveyors of High-Waies respectively, are hereby impowred in such case also to imple and leavy over and above the twelve pence in the pound before mentioned, such greater Taxes and Rates upon the Occupiers of those Lands where such Inclosures, or Undrest Ditches or Fences be, as they shall respectively think fit, having the same Rates allowed by the Sessions of the Peace, or the two next Justices of the Peace, as aforesaid, which shall be final to the parties.

## VIII.

That if any Parishioners Rated to the mending of High-Waies as aforesaid, shall fail to pay to the said Surveyors of High-Waies,



Wales, his proportion of Tax, rated upon  
him, by the space of seven years after notice  
notice and warning given for payment thereof.  
That then every such Person or Persons  
shall pay double as much as he is rated  
at in the Tax.

That for more effectual mending the said  
High-ways, and Parish Bridges, and  
Streets, and for removing publick Obsta-  
cles out of the same; The Surveyors afore-  
mentioned shall yearly at such convenient  
times as they shall agree upon, hire such and  
so many Labourers & Workmen, and Carts  
and Carriages, as they shall think needful  
for mending the said High-ways, Parish  
Bridges, and Water-courses, and Streets,  
and shall cause them to be fully and perfectly  
mended from time to time, and such Labour-  
men, and Drivers of Carts and Carriages  
are hereby required to work accordingly, for  
such reasonable wages, and under such penal-  
ties as any two Justices of Peace within the  
Division shall think fit.

That in places where Ritches adjoining  
to Common High-ways, or to any other way, the  
water from such High-ways, or from any other  
well or uncoursed, or where water does run in,  
so to stand in any such High-ways, to the an-  
noyance of it, or where Trees, Bushes, or  
Hedges, standing in High-ways, or adjoining  
to High-ways, are suffered to grow up, and to

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ground  
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place

hinder and obscure it from the power of the  
 Sun for drying thereof. The said Surveyors  
 are hereby empowered in all such convenient  
 places to cause such Ditches to be well and  
 cleared and to stop and divert any such water  
 course and to turn the water into any adjoin-  
 ing ditch, or to make new Ditches in conven-  
 ent places through the Grounds adjoining,  
 for the most convenient conveying such water,  
 as also to cut, plash, and keep low all such  
 fens, bogs, and boggles, as they shall  
 see cause.

That the said Surveyors be and are hereby au-  
 thorized further to dig for and get stones, Chalk  
 or Sand, Limes, Chalk, or any other mate-  
 rial for mending high-ways or in upon any  
 the waste or common grounds within the pa-  
 rish, or if they cannot there as conveniently had  
 to and upon any private man's Pasture or fall-  
 low ground where it may be had, within the  
 parish, or in any other place adjoining, partly  
 with convenient way for lugging the same at  
 such reasonable times, and for such reasonable  
 satisfaction and composition to such private  
 person as the said Surveyors and Occupiers  
 of such Lands shall agree upon, and in case of  
 disagreement betwixt them, then for such sat-  
 isfaction as any Justice of Peace near adjoin-  
 ing, not interested in such ground, to be indif-  
 ferently chosen by the parties, shall set down  
 and appoint, and such Order as the said Jus-  
 tices of Peace shall set down, shall be final to  
 the parties, without further appeal.

XII. That in case where the said common high-  
 ways

*I have signed  
 this  
 in witness  
 where*

*Justices  
 of Peace  
 chosen.*

waies and streets are or shall be so defective,  
 or shall extend to great length in any one  
 parish, so that the parish is overburdened  
 the townsh, and the Rate of the parish is  
 increased by the necessities and not having to  
 amend and Repair the same, the Justices of  
 Peace at their own Sessions, are hereby im-  
 powered from time to time to take such order  
 within the Limits of their Com-  
 mission, to lay Rate for mending such waies  
 according to the true yearly value of the  
 Land shall not amount to the value of the  
 pound as aforesaid, as the two Justices shall  
 think fit, and the Rate amount to the value  
 in the pound, towards the mending of the  
 such waies and streets in such parishes as  
 they shall find to be so overburdened.

That if any wagons, Carts, or Carria-  
 ges, wherein any Burdens of dead commodi-  
 ties or wares shall at any time from and after  
 the first day of May next be drawn upon any  
 such high-waies, Roads, or streets witha-  
 bove five horses or Wares, or six Oxen & one  
 Horse or Mule in any one Cart or wagon that  
 then it shall be lawful to or for any Constable  
 or Surveyors of high-waies, or other Inha-  
 bitant in any parish where such laden wa-  
 gon, Cart or Carriage shall pass and be drawn  
 as aforesaid, to detain and seize all such su-  
 pernumerary horses, Wares or Oxen as he  
 shall find in any such wagon Cart or Carri-  
 age, over and above the number of five horses  
 or Wares, or six Oxen and one Horse or Mule  
 respectively, and the same supernumera-

*2/11/01*  
*P. B. B.*  
*J. J. J.*

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*2/11/01*





as fully as any Commissioners for Charitable uses may do; and in case they shall have any default, neglect or misemployment in any person or persons, body politick or corporate, in or concerning the same, the said Justices shall and may order and above the ordering and decreeing what shall be due and in arrears, with damage for not employing the said Charitable gift according to the true intent thereof, impose a fine, not exceeding forty pounds, upon such as shall be found offenders therein; which fine, in case of refusal, to be paid within forty dayes of the demand made by warrant from the Justices, or any two of them, shall be Levied by warrant from the said Justices, by distress and Sale of the offenders goods, and being Levied, shall by the care of the said Justices be employed for the mending and repairing the said High-ways, Pavements, Streets, Bridges, or Canals respectvely; And such Order as the said Justices shall make in the premises shall be final, without further appeal.

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warrant  
2 Just*

That Streets and Pavements in any City, Town, Corporate, or the Suburbs thereof, or near adjoining to the same, are hereby declared to be Common High-ways, and Scavengers to be Surveyors, within the intent and construction of this Ordinance, and within all Lanes in force concerning High-ways, and in every Parish and

*London  
Scavenger  
Surveyor*

place Where Pavements and Streets are, they shall be paved and kept in good repair, and cleansed for the convenience and health of the Inhabitants; And Where any of the Provisions afore-mentioned, or any other Lawes now in force concerning High-ways, Streets or Pavements, shall not be found sufficient to reform the great defects of Pavements and Water-courses, and in removing of filth and other nuisances in such Streets and places; it shall and may be lawfull to and for the Inhabitants of any such Parish rated to the poor, to meet together at the time hereby appointed, for choice of Surveyors, or Scavengers, at which time, or as often as the said Inhabitants shall please, they shall set down and make such reasonable By-lawes and Orders, for the rating and taxing the severall Inhabitants of the said Parish, being Occupiers of any Houses, Lands, Tenements, or Hereditaments, or having any Stock or Trade, or otherwise, being of sufficient ability for reforming the defects in paving and cleansing the Streets, and causing the Channels and Water-courses to run freely, and for keeping the same in good order, and for assessing and imposing reasonable penalties upon offenders, and for Levying of the said severall sums by warrant of any Justice of Peace, within the limits of his Commission, by distress and sale of the offenders goods, and for employing the same, and reforming the neglect of Scavengers and Inhabitants in any the premises as they shall think fit: which orders so made, being presented unto, and

allowed,

*Myss & Towne  
of the said  
parish  
shall make  
the same  
resolutions  
efficient*

*James  
Maltby  
City &  
Corporation  
of the said  
parish  
1 Just:*

allowed, or altered by the Justices of Peace at their open Sessions, shall be duly observed and put in execution, according to the allowance or alteration of the said Justices of Peace, and be final to all parties.

## XVI.

That all Sums of money Assessed and Rated as aforesaid, and all fines, penalties, forfeitures, and other sums of money arising by Assessment or otherwise, by this Ordinance, or by any other Law now in force, touching high-ways and Streets, and all Issues, to be forfeited for not appearing to any Information or Indictment, for not repairing any high-ways, or not removing or reforming defects and Nuisances in any Streets or high-ways, And all Fines and Amerciaments to be imposed upon any Parish or private person, for not repairing high-ways, Streets or Water-courses, shall be employed and bestowed by the said Surveyors of high-ways, in paying Workmens Wages for doing such Works, and for such other employment as are hereby appointed to be done and performed, and shall be Levied by vertue of this Ordinance, by the said Surveyors of high-ways, or any of them, by warrant from any Justice of Peace within the County, Riding, City, Town Corporate, or Limit of his Commission, by Distress and Sale of the goods of such person as shall be so behinde, or chargable with any such sum.

*all sum  
to be levied  
by warrant  
any J.*



and for default of such distress or non pay-  
ment of the money by the space of ten dayes  
after demand thereof made, or left at his house  
in writing, under the hand of the said Sur-  
veyors, or either of them, the partie so in ar-  
rear, shall be by warrant from any Justice  
of Peace within the said Division, commit-  
ted to prison to the Common Goal of the  
County: there to remain without Bail or  
Main-prize, till he have paid double what  
shall be so in arrear, and charged upon him  
to pay, together with the charges incurred  
to parties prosecuting, by such default.

And this Ordinance shall be in full force  
and effect from the first day of January next  
following the date hereof.

That if any suite shall be commenced by  
any person against any Constable or Sur-  
veyors of High-Wates, or against any per-  
son employed by them, or any of them or au-  
thorized by this Ordinance to do or perform,  
as by this Ordinance is directed, for doing  
and performing as aforesaid; that then in e-  
very such case, the Action shall be laid in  
the proper County where the fact was done,  
and not elsewhere: and the Defendant may  
plead the general Issue to it, and give the  
special matter in evidence at the Trial, That  
what was done, was done in pursuance of  
this Ordinance: and if upon examination it  
shall so appear to be done, then the Jury  
shall find for the defendant: And in such  
case, as also if the Plaintiff shall be non-  
suer, or discontinue his Action after the De-  
fendant hath appeared, the defendant shall  
have his full costs, which upon Oath he  
shall



shall make appear to the Judge, before whom the Tryal or discontinuance is had, he hath laid out in defence of such suit, as also ten pounds more, in regard of his unjust trouble and vexation, taxed the Court, against such Plaintiff.

*B*  
10  
*Carly*

## XVIII.

That every Surveyor elected, or hereby appointed as aforesaid, shall yearly within one moneth after the expiration of the year, wherein he was so Surveyor, make and yield up to the Parishioners of the Parish, a true and perfect account in writing, at some publick meeting to be appointed by the Parish, of all the moneys he hath received or paid out within his year, for or by reason of his said office; namely, of whom, and what received, and to whom, and what paid; and if any overplus do remain in his hands, he shall pay the same over to the next Surveyors then in being, for the use of the said Parish, to be disbursed in and about the Highways. And if such Surveyors, shall refuse or neglect to make such account or repayment as aforesaid, that then it shall be lawful to and for any Justice of Peace within the County, Riding, City, or Town-Corporate, or limit where the Parish lies, to examine the Account, and upon default found on the Surveyors part, to Commit such Surveyors to the Common Goal of the County, there to remain without Bayl or Mainprise, untill he shall make such Account, and payment as aforesaid, together

*Survey*  
*by*  
*the*  
*Parish*  
*& to*  
*be*  
*paid*

*If B. may be*  
*by any*  
*without*  
*account*  
*C. Dan*

With such satisfaction for the damage which  
 the said Parishioners have sustained, by rea-  
 son of such neglect, as any such Justice of  
 Peace shall adjudg reasonable. But if the  
 said Judg shall finde such Account to be  
 clear and good, then he is to allow the same,  
 and such Surveyor is not afterwards to be  
 questioned or troubled thereabouts. Prohi-  
 bited alwaies, that this Ordinance, nor any  
 thing therein contained, shall not extend to  
 discharge any person or persons, body-poli-  
 tick or corporate, from repairing or reform-  
 ing any the defects and abuses as aforesaid  
 which by any Grant, Tenure, Prescription,  
 Limitation or Appointment, of any Char-  
 table Gifts, they are bound and charged to  
 repair and reform, nor to alter or make  
 void any Law or Custom now in force, or  
 used for the enforcing and constraining the  
 said persons and bodies politick aforemen-  
 tioned, to perform and do their duties in re-  
 pairing such high-ways, and Bridges as  
 aforesaid. And it is the true intent and  
 meaning of this Ordinance, that no Sur-  
 veyors, for amendment of high-ways, shall  
 be chosen at any other time, or otherwise,  
 than by this Ordinance is directed. And it is  
 further Ordained, by the Authority aforesaid,  
 That no Writ of Certiorari shall issue or  
 be allowed to remove any Information,  
 Indictment, Presentment, or other proceed-  
 ings, within this Ordinance, or within any  
 Law now in force, concerning high-ways,  
 Causes, or Bridges, except it be upon some  
 question and controverſie, betwixt County  
 and County.

And

And it is lastly ordained by the Authority  
aforesaid, That one Act made in the first  
year of the Reign of the late Queen Mary,  
for and concerning the making, repairing,  
and amendment of the Common High-way  
and Cause, in the Counties of Dorset and  
Somerſet, between the Towns of Sharſbury  
and Shirborn, in the ſaid Countie of Dorſet,  
Intituled, An act to repair Shirborn-Cauſie, in  
the Counties of Dorſet and Somerſet, from hence-  
forth ſhall be revived and ſtand in force, un-  
till the firſt of September, 1662.

*Fryday March 31. 1654.*

**O**Rdered by his Highneſſe the Lord Protector,  
and His Council, that this Ordinance be forth-  
with printed and publiſhed.

*Henry Scobel, Clerk of the Council.*



The first of these is the fact that the  
 second of these is the fact that the  
 third of these is the fact that the  
 fourth of these is the fact that the  
 fifth of these is the fact that the  
 sixth of these is the fact that the  
 seventh of these is the fact that the  
 eighth of these is the fact that the  
 ninth of these is the fact that the  
 tenth of these is the fact that the

with printed and published  
and His Majesty's Ordinance the Lord  
of the Lord's Privy Council

Henry Seibel, Clerk of the Council.